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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,750	11/15/2002	Cheng-Jye Liu	8711-US-PA	7526

31561 7590 07/27/2004

JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI, 100
TAIWAN

EXAMINER

LUU, CHUONG A

ART UNIT	PAPER NUMBER
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2825

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,750

Applicant(s)

LIU ET AL.

Examiner

Chuong A Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-21 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The indicated allowability of claim 7 is withdrawn in view of the newly discovered reference(s) to the USPTO case laws. Rejections based on the newly cited reference(s) follow.

PRIOR ART REJECTIONS

Statutory Basis

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The Rejections

Claims 1-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kluth et al. (U.S. 6,376,341 B1) in view of Wolf et al. (Silicon Processing).

Kluth discloses a method for fabricating a memory cell with

(1) forming a silicon oxide (26)/silicon nitride (28)/silicon oxide (30) (ONO) stacked layer (24) on a substrate (23), the ONO stacked layer (24) consisting of a bottom oxide layer (26), a silicon nitride layer (28) and a top oxide layer (30);

forming a masking layer (protective layer) (36) on the ONO stacked layer (24), wherein a thickness of the protective layer is smaller than 50Å;

patterning the masking layer (protective layer) (36) and the ONO stacked layer (24) to form a plurality of stacked patterns (see Figure 6);

removing the masking layer (protective layer) (36), which becomes layer (34) (see column 6, lines 66-67);

(3) wherein a thickness of the bottom oxide layer is about 50-150 Å (50-100 Å) (see column 5, lines 28-29);

(4) wherein a thickness of the silicon nitride layer is about 50-200 Å (55-80 Å) (see column 5, lines 35-43);

(5) wherein a thickness of the top oxide layer is about 50-150 Å (70-120 Å) (see column 5, lines 44-46);

(6) the the masking layer (protective layer) (36) comprises silicon nitride (see column 5, lines 49-50);

(9) wherein the ONO stacked layer (24) is patterned until a portion of the bottom oxide layer (26) is exposed "on the sidewall" (see Figure 6);

(10) wherein the exposed bottom oxide layer (26) is removed after the ion implantation is performed (see Figures 3-5);

(11) wherein the insulator comprises silicon oxide (50) (see column 6, line 67).

Kluth discloses the claimed invention except for wherein an etching rate of the protective layer is lower than an etching rate of the top oxide layer; wherein removing the protective layer comprises using wet etching to remove the protective layer; and specific thicknesses of ONO layer. However, Wolf discloses silicon processing for the VLSI ERA with (1).... wherein an etching rate of the protective layer is lower than an

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etching rate of the top oxide layer (see pages 532-534); **(2)** wherein removing the protective layer comprises using wet etching to remove the protective layer (see pages 532-534). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Kluth and Wolf by applying wet etching process to remove the protective layer and selecting the optimized thickness of ONO layer, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) and In re Aller, 105 USPQ 233.

When the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller , 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955). Applicant can rebut a prima facie case of obviousness based on overlapping ranges by showing unexpected results or the criticality of the claimed range. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims 1, 3-6 and 9-11. In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." In re Woodruff , 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). See MPEP ' 716.02 - ' 716.02(g) for a discussion of criticality and unexpected results.

Claims 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kluth et al. (U.S. 6,376,341 B1) in view of Wolf et al. (Silicon Processing) and further in view of Randolph et al. (U.S. 6,538,270 B1).

Kluth and Wolf disclose everything above except for forming a plurality of word lines on the substrate; wherein the word lines comprise polysilicon. Furthermore, Randolph discloses an array of memory cell with (8) further comprising:..... forming a plurality of control gate electrode (228) (word lines) on the substrate (see column 4, lines 24-29. Figure 6); (12) wherein the control gate electrode (228) (word lines) comprise polysilicon (see column 4, lines 26-27). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Kluth, Wolf and Randolph to complete a memory cell by forming a word lines above the bitline to extend the life of the memory cell.

Allowable Subject Matter

Claims 13-21 are allowed.

The following is an examiner's statement of reasons for allowance: The examiner has reviewed the prior art in light of applicant's claimed invention and finds that the combined limitations claims define over the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong A Luu whose telephone number is (571) 272-1902. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on (571) 272-1907. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAL
July 23, 2004


CARIDAD EVERHART
PRIMARY EXAMINER